

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

SAMLY MILAVONG,

Plaintiff,

v.

LELAND DUDEK,
Acting Commissioner of Social Security ¹,

Defendant.

Case No. 1:24-cv-0278 JLT BAM

ORDER ADOPTING THE FINDINGS AND
RECOMMENDATIONS, GRANTING
PLAINTIFF'S APPEAL, DENYING
DEFENDANT'S REQUEST TO AFFIRM,
AND REMANDING FOR FURTHER
PROCEEDINGS PURSUANT TO SENTENCE
FOUR OF 42 U.S.C. § 405(g)

ORDER DIRECTING ENTRY OF
JUDGMENT IN FAVOR OF PLAINTIFF
SAMLY MILAVONG AND AGAINST
DEFENDANT LELAND DUDEK, ACTING
COMMISSIONER OF SOCIAL SECURITY

(Docs. 15, 19, 20)

Samly Milavong seeks judicial review of a final decision denying her application for supplemental security income under Title XVI of the Social Security Act. (Doc. 1.) The magistrate judge found the administrative law judge failed to account for mental limitations identified by a physician in Plaintiff's residual functional capacity determination. (Doc. 25 at 6-13.) The magistrate judge concluded "the ALJ's decision is not supported by substantial evidence in the record as a whole and is not based on proper legal standards." (*Id.* at 13.) Therefore, the

¹ Leland Dudek became the Acting Commissioner of Social Security in February 2025. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Leland Dudek is substituted as the defendant in this action.

1 magistrate judge recommended that the Court grant Plaintiff's appeal, reverse the agency's
2 determination to deny benefits, remand the matter for further administrative proceedings, and
3 enter judgment in favor of Plaintiff. (*Id.* at 13-14.)

4 The Court served the Findings and Recommendations on the parties and notified them
5 that any objections were due within 14 days. (Doc. 20 at 14.) The Court also advised the parties
6 the "failure to file objections within the specified time may result in the waiver of the 'right to
7 challenge the magistrate's factual findings' on appeal." (*Id.*, citing *Wilkerson v. Wheeler*, 772
8 F.3d 834, 838-39 (9th Cir. 2014).) Neither Plaintiff nor the Commissioner filed objections, and
9 the time to do so has passed.

10 According to 28 U.S.C. § 636(b)(1), this Court performed a *de novo* review of this case.
11 Having carefully reviewed the matter, the Court concludes the Findings and Recommendations
12 are supported by the record and proper analysis. Thus, the Court **ORDERS**:

- 13 1. The Findings and Recommendations issued on February 19, 2025 (Doc. 20) are
14 **ADOPTED** in full.
- 15 2. Plaintiff's motion for summary judgment and appeal from the administrative
16 decision (Doc. 15) is **GRANTED**.
- 17 3. The Commissioner's request to affirm (Doc. 19) is **DENIED**.
- 18 4. The Agency's determination to deny benefits is **REVERSED**.
- 19 5. The action is **REMANDED** for further proceedings pursuant to sentence four of
20 42 U.S.C. § 405(g).
- 21 6. The Clerk of Court is directed to enter judgment in favor of Plaintiff Samly
22 Milavong and against Defendant Leland Dudek, Acting Commissioner of Social
23 Security.

24
25 IT IS SO ORDERED.

26 Dated: **March 6, 2025**


UNITED STATES DISTRICT JUDGE